

ANALYSIS OF AMENDED BILL

Author: J. Horton Analyst: Norman Catelli Bill Number: AB 1026
 Related Bills: See Legislative History Telephone: 845-5117 Amended Date: January 4, 2006
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: FTB Ascertain Correctness of Returns of Taxpayers with Gross Receipts More Than \$1Billion and Only Paid Minimum Franchise Tax

SUMMARY

This bill would require the Franchise Tax Board (FTB) to ascertain the correctness of returns filed by corporations with specified characteristics.

SUMMARY OF AMENDMENTS

The January 4, 2006, amendments add the provision that requires FTB to ascertain the correctness of returns with specified characteristics.

This is the department's first analysis of this bill.

PURPOSE OF THE BILL

The intent of this bill appears to be to encourage a higher degree of self-compliance with California's Corporation Tax Law (CTL).

EFFECTIVE/OPERATIVE DATE

If enacted in the 2006 legislative session as an administrative measure, this bill would be effective on January 1, 2007, and operative as of that date.

POSITION

Pending.

ANALYSIS**FEDERAL/STATE LAW**

Federal law provides the IRS with the authority to examine any books, papers, records, or other data belonging to a taxpayer in order to ascertain the correctness of the taxpayer's tax return.

FTB administers the corporate franchise, corporate income, and administrative tax law provisions related thereto. California Revenue and Taxation Code (R&TC) section 19032 requires FTB to

Board Position:

_____ S _____ NA _____ NP
 _____ SA _____ O _____ NAR
 _____ N _____ OUA _____ X PENDING

Department Director

Will C. Bush

Date

12/30/05

examine a return as soon as practicable after the return is filed to determine the correct amount of tax. FTB audits tax returns and assesses deficiencies. In performing these duties, FTB may examine relevant books and records, and compel attendance and take testimony at hearings. FTB may demand that an entity provide information or make available information relevant to ascertaining the correctness of a return.

THIS BILL

This bill would require FTB to ascertain the correctness of any return of a taxpayer subject to the CTL if both the following apply:

- The taxpayer's gross receipts for the taxable year were more than \$1 billion, and
- The taxpayer paid only the minimum franchise tax for the taxable year.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations.

LEGISLATIVE HISTORY

There are no previous or current bills that have the same or similar subject matter.

OTHER STATES' INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws. Each state has a department primarily responsible for administering the state revenue laws, including compliance with corporation income and franchise taxes; however, none of these states mandates specific audits.

FISCAL IMPACT

This bill would not significantly affect the department's costs.

ECONOMIC IMPACT

Revenue Impact

This proposal will not affect revenues.

Revenue Discussion

As currently drafted, the direction to FTB from this proposal would be similar to an existing requirement in the R&TC for FTB to examine each filed return as soon as practicable to determine the correct amount of tax (R&TC section 19032); therefore, this proposal should not affect FTB operations or state revenues. In addition, FTB routinely audits large corporate taxpayers, such as those affected by this proposal, on a regular basis. Less than fifty taxpayers were identified as meeting these criteria for the 2003 tax year.

POLICY CONCERNS

Historically, the Legislature has avoided the audit selection process so that the process is not “politicized.”

LEGISLATIVE STAFF CONTACT

Norman Catelli
Franchise Tax Board
(916) 845-5117
norm.catelli@ftb.ca.gov

Brian Putler
Franchise Tax Board
(916) 845-6333
brian.putler@ftb.ca.gov